

SENATE BILL NO. 223

INTRODUCED BY MCNUTT, RASER, BUZZAS, GEBHARDT, HAINES, TESTER, WANZENRIED

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING EVIDENCE REGARDING SEAT BELT ~~USE~~ NONUSE TO BE ADMISSIBLE IN A CIVIL ACTION FOR PERSONAL INJURY OR ~~PROPERTY DAMAGE~~; PROVIDING THAT FAILURE TO COMPLY WITH THE SEATBELT REQUIREMENT MAY REDUCE THE LIABILITY OF AN INSURER OR ANY PARTY TO THE CIVIL ACTION DEATH OF THE DRIVER OR PASSENGERS FOR THE PURPOSE OF REDUCING OTHERWISE RECOVERABLE DAMAGES; AND AMENDING SECTION 61-13-106, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-13-106, MCA, is amended to read:

"61-13-106. Evidence not admissible OF SEATBELT NONUSE -- WHAT IS ADMISSIBLE -- WHAT IS NONADMISSIBLE. Evidence of compliance or failure to comply with 61-13-103 is not admissible in any civil action for personal injury or property damage resulting from the use or operation of a motor vehicle, and failure to comply with 61-13-103 does not constitute constitutes negligence and may serve to reduce the liability of an insurer or any party to the action WITH THE EXCEPTION OF PASSENGERS WHO ARE INCAPACITATED PERSONS, AS DEFINED IN 72-5-101, PASSENGERS UNDER 18 YEARS OF AGE WHO HAVE NOT BEEN ISSUED A DRIVER'S LICENSE, AND OCCUPANTS DESCRIBED IN 61-13-103(2), AN OCCUPANT WHO FAILS TO USE A PROPERLY ADJUSTED AND FASTENED SEATBELT IS NEGLIGENT. EVIDENCE OF THIS NEGLIGENCE IS ADMISSIBLE IN ANY CIVIL ACTION FOR PERSONAL INJURY OR DEATH OF AN OCCUPANT TO WHOM THIS SECTION APPLIES, BUT ONLY FOR THE PURPOSE OF REDUCING THE OCCUPANT'S RECOVERY BY AN AMOUNT NOT TO EXCEED 25% OF RECOVERABLE DAMAGES. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, FAILURE TO COMPLY WITH 61-13-103 DOES NOT CONSTITUTE NEGLIGENCE, AND EVIDENCE OF FAILURE TO COMPLY WITH 61-13-103 IS NOT ADMISSIBLE IN ANY CIVIL ACTION."

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